

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



**TRANSCRIPT OF RECORD.**

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**Court of Appeals, District of Columbia**

**APRIL TERM, 1901.**

**No. 1076.**

77

**No. 17, SPECIAL CALENDAR.**

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**BOYD WALLACE, APPELLANT,**

**vs.**

**THE UNITED STATES.**

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**APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA**

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**FILED APRIL 2, 1901.**

# COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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# In the Court of Appeals of the District of Columbia.

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BOYD WALLACE, Appellant, }  
vs. } No. 1076.  
THE UNITED STATES. }

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a Supreme Court of the District of Columbia.

UNITED STATES }  
vs. } No. 22662. Criminal.  
BOYD WALLACE. }

UNITED STATES OF AMERICA, } ss :  
District of Columbia, }

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Indictment.*

Filed in Open Court Nov. 19, 1900.

In the Supreme Court of the District of Columbia, Holding a Criminal Term.

DISTRICT OF COLUMBIA, ss:

October term, A. D. 1900.

The grand jurors of the United States of America in and for the District of Columbia aforesaid upon their oath do present:

That one Boyd Wallace, late of the District aforesaid, on the seventh day of August, in the year of our Lord one thousand nine hundred, and at the District aforesaid, in and upon one Robert Stafford, he, the said Robert Stafford, in the peace of God and of the said United States then and there being, feloniously, wilfully, and of his malice aforethought did make an assault, and that the said Boyd Wallace, with a certain knife in his right hand then and there had and held, the said Robert Stafford, in and upon the left side of the abdomen of him, the said Robert Stafford, then and there, feloniously, wilfully, and of his malice aforethought, did strike, stab, cut, and penetrate, giving to him, the said Robert Stafford, then and there, with the knife aforesaid, in and upon the left side of the abdomen of him, the said Robert Stafford, one mortal wound of the

length of three inches and of the depth of two inches, of which said mortal wound the said Robert Stafford, from the said seventh day of August, in the year of our Lord one thousand nine hundred, until the eighth day of August, in the same year, and at the District aforesaid, did languish and, languishing, did live; on which said eighth day of August, in the year aforesaid, and at the District aforesaid, the said Robert Stafford, of the mortal wound aforesaid, did die.

And so the grand jurors aforesaid upon their oath aforesaid do say that the said Boyd Wallace the said Robert Stafford, in manner and by the means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the form of the statute in such case made and provided and against the peace and Government of the said United States.

THOMAS H. ANDERSON,  
*Attorney of the United States in  
and for the District of Columbia.*

(Endorsed :) No. 22662. United States vs. Boyd Wallace. Murder. Witnesses: Leroy R. Stoddard, William M. Fisher, Hannah Reed, Lewis C. Tromba, M. P., Harriet Jackson, Bessie Porter, Charles C. Baker. A true bill. William B. Hoover, foreman.

3 Supreme Court of the District of Columbia.

MONDAY, *December* 17, 1900.

The court resumed its session pursuant to adjournment, Mr. Justice Clabaugh presiding.

UNITED STATES	} No. 22662. Indicted for the murder of Robert Stafford.
vs.	
BOYD WALLACE.	

Come as well the attorney of the United States as the defendant in proper person in custody of the warden of the jail of the District of Columbia, and thereupon, the defendant being arraigned upon the indictment, he pleads thereto not guilty and for trial puts himself upon the country, and the attorney of the United States doth the like.

*Memoranda.*

January 9, 1901.—Jury sworn and respited from day to day until—

January 11, 1901.—Verdict, guilty as indicted.

*Memorandum.*

January 14, 1901.—Motion for new trial filed.





ings of the court taken at the trial of this cause, and prays that the same may be signed, sealed, and made a part of the record, which is done accordingly *nunc pro tunc*.

*Bill of Exceptions.*

Filed in Open Court March 16, 1901.

In the Supreme Court of the District of Columbia, Holding a Criminal Term.

THE UNITED STATES	}	No. 22662. Indictment for Murder.
vs.		
BOYD WALLACE.		

Be it remembered that at the trial of the above-entitled cause, during the term above mentioned, before one of the justices of said court and a jury, the above-named defendant was tried upon an indictment charging him with murder.

After the jury was sworn the United States, to prove the issue on its part joined, called one HARRIET JACKSON as a witness, who, being duly sworn, testified substantially as follows: That she has known the defendant for about six years and was on terms of intimacy with defendant for about five years, during which time she bore one child by the defendant; that during the period of her intimate relation with the defendant she never kept company with any other man; that she had for some time, not more than a month, prior to the night of the homicide ceased to cohabit with the defendant, and at the time of her testifying said that she had lost all affections for the defendant; that on the night of the homicide she was living at No. 607 N St. N. W., in the city of Washington; that she had in her possession two tickets for a garden party, and also had an engagement to go to the garden party with the defendant, which engagement she declined to keep; that the defendant

7 left the house at her request to sell said tickets; that some time after the defendant left the house the deceased, Robert Stafford, suggested that they (he and Harriet Jackson) take a car ride, to which, after some hesitation, she assented, and they proceeded forthwith to Anacostia, and returned; that when they got off the car at 11th and N Sts. N. W. they walked east on N St. until they reached the cor. of 10th and N Sts. N. W., at which point the deceased, Robert Stafford, left her for the purpose of getting some whiskey or brandy, saying that he would need it before going to work the next morning, and also requested her to walk on, saying he would meet her at the cor. of 7th and N Sts.; that she continued to walk east on N St.; that when she reached the cor. of 7th and N Sts. N. W. she saw the defendant, and that she and the defendant walked home together; the deceased, Stafford, walked on behind them.

That during the walk to the house the defendant asked her where



had she been; she said, To Anacostia for a car ride with Bob; defendant said, That looks mighty funny; and that nothing more was said until they reached home; that when they reached home she and the defendant went into the house, and that deceased, Stafford, remained in the front yard. Defendant said to her, Harriet; I want to speak to you; he then said to the deceased, Bob, I want to speak to you, too; she said, If you want to speak to me, I am going in the yard; you can speak to me there, and that she and the defendant went down the yard into the shed; that deceased accompanied them through the house and continued upstairs to his room; that up to that time the defendant had shown no signs of anger, but spoke in his ordinary tone of voice; that she and the defendant were seated in the  
8 shed near the door; that while in the shed the defendant said to her, Harriet, it looks mighty funny that every time Bob gets paid you go car-riding with him. On hearing his name mentioned the deceased rushed down in the yard, [ripped out an oath],\* she could not say what it was, and said, What about Bob? Defendant said, Bob, I am not speaking to you. I will see you presently. Deceased said, with an oath, See me now, and at that time they both passed blows; she could not say who passed the first blow; that the defendant was on the inside of the shed, and that deceased was on the outside, at the door; that when defendant and deceased began to pass blows and after they had advanced some distance upon the yard she ran into the kitchen, immediately followed by Hannah Reed; that she did not see a knife in defendant's hand, and that she was present when the trouble began, and did not see defendant cut the deceased, nor did she see him have a knife, and that upon to the time when she ran into the kitchen, followed by Hannah Reed, that no cutting, so far as she saw, had taken place.

That when she and Hannah Reed ran into the kitchen no one was in the yard but the defendant and the deceased; that it was too dark in the yard to see from the kitchen what took place in the yard after she and Hannah Reed ran into the kitchen, and that whatever occurred in the yard after she left she could not say.

Thereupon the United States gave further testimony to prove the issue on its part joined by calling HANNAH REED, who, being duly sworn, deposed and testified substantially as follows:

That on the Sunday night preceding the night of the tragedy the defendant made threats against deceased, and said that when  
9 he got through with Bob the undertakers would gamble on his body; that she had not communicated the threats to the deceased; that on the night of the homicide, the 7th day of Aug., A. D. 1900, supper was served about five or six o'clock, and that defendant refused to sit at the table while the deceased was eating his supper.

That after supper the defendant, at the request of Harriet Jack-

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[\* Words enclosed in brackets erased in copy.]

son, went out to sell two tickets, and that a short while after the defendant left the house Harriet Jackson and the deceased went out for a car ride; that some time after Harriet Jackson and the deceased left the house the defendant returned and asked for Harriet, and that she informed him that Harriet had gone out; that thereupon defendant went to her (Hannah's) room and said, Hannah, I want to speak to you; that defendant said to her, Hannah, Bob is doing me wrong; Harriet had an engagement with me and has now gone out with Bob, and that defendant said, My heart is broken; I cannot stand it any longer, and that when he got through with Bob the undertakers would gamble on his body.

That she begged the defendant not to start any fuss, and that the defendant promised he would not; that the defendant walked from the house to 7th St. three or four times, and on his return each time he would inquire if Harriet had returned; that about 11 o'clock the defendant, Harriet, and Bob returned to the house, and that she was in the front yard when they came in; that Harriet and the defendant went into the house and Bob remained in the front yard. Defendant said to Harriet, Harriet, I want to speak to you; I want to speak to you, too, Bob; that Harriet and defendant went down in the yard, and Bob went upstairs and

10 came down and stood in the kitchen door leading into the back yard; that in a very short time after Harriet and

the defendant went down in the yard she (Hannah) went down in the shed, and found Harriet and defendant seated in the shed; that she again begged the defendant not to start any fuss, and said, Boyd I thought you told me you were not going to start any fuss, and that defendant said that he would not hurt a hair in Harriet's head; I only want to speak to her; that defendant said to Harriet, Harriet, who are you playing a dam-fool? Are you playing me a dam-fool, or are you playing Bob a dam-fool? That defendant also said to Harriet, Harriet, it is mighty funny that every time Bob gets paid you go car-riding with him. At that time the deceased came down and said, What about Bob? and that defendant said, I will show you what about Bob; that defendant pulled out his knife, opened it, and cut the deceased three times, and that defendant cut the deceased without the deceased having done a single thing to the defendant; that she and Harriet Jackson ran in the kitchen; Harriet ran first and she ran in behind her; that running in the kitchen she (Hannah) looked back and saw the defendant striking the deceased, and that in a very short time after she and Harriet got into the kitchen the defendant ran in, and Harriet Jackson shut the door; that deceased walked up the yard, stood by the window, and said, I am cut to death, and asked that some one go for the police to take him to the hospital; that she is the aunt of Harriet Jackson, and that Harriet had complained to her several times about the defendant having assaulted her; that she entertained no hostile feelings towards the defendant; that she denied having

11 made the statement that she told the defendant's mother that she was not present and did not know anything about the homicide; that she also denied having said that she did not

like the defendant; that she could not bear a bone in his body; that if she ever had an opportunity she would poison defendant, and that she would do all in her power to see him hang:

Thereupon the United States gave further testimony to prove the issue on its part joined by calling LEROY R. STODDARD, M. D., who, being duly sworn, gave testimony tending to show the size of the deceased, the nature and character of the wound inflicted, and that deceased died of the wounds inflicted at a hospital in Washington, District of Columbia, about five hours after he was brought there for treatment; that the deceased was a powerfully built man, standing more than six feet, and weighing about two hundred pounds.

Thereupon the United States gave further testimony to prove the issue on its part joined by calling BESSIE PORTER, who, being duly sworn, gave testimony tending to show that the defendant came to the house on the night of the homicide three or four times and asked for Harriet Jackson.

Thereupon the United States gave further testimony to prove the issue on its part joined by calling LEWIS C. TROMBA, who, being duly sworn, testified substantially as follows: That he was called to the house No. 607 N St. N. W. on the night of Aug. 7, A. D. 1900, a short time after the tragedy; saw the condition of the deceased, and talked with deceased concerning the cutting. Deceased was sent to the hospital, where he died the next day; that he made an examination of the premises No. 607 N St., and found an  
12 ax lying between the kitchen window and door; that he then went to the house of defendant's mother, No. 1221 Madison St. N. W., and there found defendant seated in a chair; that he placed the defendant under arrest, and found no marks or bruises on defendant; that defendant made no resistance to the arrest; that defendant confessed that he cut the deceased, but said he did it in self-defense, and said that deceased attempted to cut him with a hatchet, and that he cut the deceased with a knife, and that he threw the knife away; that search was made for the knife, but it could not be found.

And thereupon the United States closed its case in chief.

Thereupon the defendant, to maintain and prove the issue on his part joined, called LUCY COLEMAN, who, being duly sworn, testified substantially as follows: That in December, A. D. 1899, Hannah Reed said to her that she never did like Boyd Wallace, and that if she ever got an opportunity she would poison him.

Thereupon the defendant, to further maintain and prove the issue on his part joined, called CORNELIA DIXSON; who, being duly sworn, testified substantially as follows: That Hannah Reed came to defendant's mother's house, No. 1221 Madison St., the morning after the tragedy, and when asked by defendant's mother where she

(Hannah Reed) was, that she allowed this thing to go on, and that Hannah Reed said that she did not see it (the cutting) and did not know anything about it; that witness and her mother went to the house No. 607 N St., and there heard Hannah Reed say that she  
13      did not like Boyd Wallace; she could not bear a bone in his body, and that she would do all she could to see him hang.

Thereupon the defendant, to further maintain and prove the issue on his part joined, called BESSIE PORTER, CORNELIA PORTER, who, being duly sworn, testified substantially as follows: That they were present and heard Hannah Reed say that she never did like Boyd Wallace; that she could not bear a bone in his body, and that she would do all she could to see him hang.

Thereupon the defendant, to further maintain and prove the issue on his part joined, called HARRIET JACKSON, who, being duly sworn, testified substantially as follows: That she had never complained to her aunt Hannah Reed about the defendant having assaulted her, and, as a matter of fact, the defendant has never assaulted her nor ill-treated her; that defendant did not say in the shed nor anywhere else, Harriet, who are you playing a dam-fool? Are you playing me a dam fool, or are you playing Bob a dam-fool?

Thereupon the defendant, to maintain and prove the issue on his part joined, testified in his own behalf as follows: That he has known Harriet Jackson for some five or six years; that he has been on terms of intimacy with her, but has never lived with her; that on the night of the homicide he was living at No. 607 N St. N. W., and that the deceased was defendant's half-brother; that he and deceased had always been good friends and had never had any trouble before in their lives; that on the night of August 7th, A. D. 1900, Harriet Jackson gave the defendant two tickets for a garden party, and requested defendant to sell them, and that he left the house to sell the  
14      tickets as requested; that when he returned to the house for the purpose of returning Harriet Jackson the money which he had received for the tickets he was informed by Bessie Porter that Harriet had gone out, but was not told where she was gone, nor with whom she was gone; that the defendant then left the house and went down in Shephard's alley and remained there about fifteen or twenty minutes, after which time he started towards his mother's house, No. 1221 Madison St.; that he again went to the house and asked for Harriet, and was again informed by Bessie Porter that she had not returned, and that at neither time when he returned to the house did he see Hannah Reed or have any talk with her. Defendant denied that he made threats against the deceased on the Sunday night preceding the night of the homicide in the presence of Hannah Reed, and also denied having made threats against the deceased on the night of the homicide or at any time. Defendant also denied that he said to Hannah Reed, either on the Sunday night preceding the night of the homicide or on the

night of the homicide, that Bob had come between him, that his heart was broken, that he could not stand it any longer, or that when he got through with Bob the undertakers would gamble on his body; that when defendant left the house the second time he did not return again until he returned with Harriet; that from the house he went down to 7th and M Sts., and from there he walked up to 7th and N Sts. and there saw Harriet; that he said to her, Harriet, where have you been? and Harriet said, I have been to Anacostia for a car ride with Bob. Defendant said, That looks mighty funny. That the defendant and Harriet Jackson walked home, and deceased walked on behind them until they reached home,

15 and that nothing more was said until they reached home; that on reaching home defendant and Harriet went into the house and deceased remained in the yard; that he said to Harriet, Harriet, I want to speak to you; and said to Bob, Bob, I want to speak to you, too; that he said nothing more to the deceased. Harriet said, If you want to speak to me, I am going down in the yard; you can speak to me there; and he and Harriet—defendant and Harriet—went down the yard to the shed, and deceased started toward the yard into the kitchen; that deceased went upstairs, pulled off his coat, came down and stood in the kitchen door. Defendant and Harriet seated themselves in the shed, and that he did not say to Harriet, Who are you playing a dam-fool? Are you playing me a dam-fool, or are you playing Bob a dam-fool? but that the only thing he said to Harriet was that it was mighty funny that every time Bob gets paid you go car-riding with him; that when the deceased heard his name mentioned he walked down the yard with one hand behind him; that deceased had something in his hand, which defendant afterwards saw to be — ax; that deceased dropped it, and picked it up two or three times, and then rushed down to where defendant and Harriet were seated and said, What the hell about Bob? Defendant said, I am not talking to you. I will see you presently. Deceased said, See me now; that deceased made an oath, and rushed at the defendant and struck at him; that blows were passed with their fists; that during the scuffle that ensued they advanced some distance up the yard, and defendant broke away; that then the deceased stooped down and picked up an ax and ran the defendant into the wood shed; that defendant had an open knife in his pocket, which he used as a huckster, and did not take the

16 knife from his pocket until deceased ran him in the shed with the ax; that deceased rushed at the defendant and cut at him with the ax, and defendant jumped out of the way; that deceased again rushed at the defendant with the ax raised and said, You s. b., I will knock your G. d. brains out; that it was while the deceased was rushing at the defendant that defendant cut him; that when defendant cut the deceased, the deceased continued his rush, and defendant cut him again. Defendant identified the ax offered in evidence as the ax which deceased had, and said he believed his life was in danger and that he could not retreat with safety to himself; that defendant then went into the kitchen; that deceased walked up



to the window and said, Open the door; I have the axe; I will kill the s. b.

That defendant went to his mother's house and remained there until the policeman came; that he submitted to arrest, and told the policeman that he cut the deceased, but he cut him in self-defense; that deceased attempted to cut at him with an ax, and it was then that he cut him. Defendant further testified that the knife with which he did the cutting was a huckster's knife, about seven inches long, which he carried on the night in question open in his right-hand pants pocket; that he had the knife in his pocket when he asked the deceased to come out in the yard, when he wanted to speak to him.

Thereupon the defendant announced *its* case closed.

Thereupon the United States, to further prove the issue on its part joined, recalled LEWIS C. TROMBA, who, being duly sworn, gave evidence tending to show that defendant did not say to him that the  
 17 deceased attempted to cut him with an ax, but that the defendant did say that the deceased attempted to cut him with a hatchet.

And thereupon the United States announced its case closed.

And thereupon, the evidence being closed on both sides, the defendant, by his counsel, requested the court to grant the following instruction- to the jury.

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                   vs.  
 BOYD WALLACE. }

1. The jury are instructed that the defendant is presumed to be innocent of the offense for which he is on trial, and that he is entitled to a verdict of "not guilty" unless upon all the evidence the jury are satisfied of his guilt beyond a reasonable doubt. Granted.

2. If the jury find from the evidence that Stafford, by his words and acts on the night of the cutting, caused the defendant at the time of the cutting to believe in good faith and upon reasonable ground, and the defendant did believe, that he, Stafford, was about to make a deadly assault upon the defendant, then the jury are instructed that the defendant had a right to use all necessary means to defend himself against such apprehended assault. Granted.

3. If the jury find from the evidence that the deceased, Stafford, just before the cutting which resulted in his death, approached the defendant in such a way as caused the defendant in good faith to believe, and gave him reasonable ground to believe, that Stafford was about to make a deadly assault upon him, then  
 18 the defendant was justified in acting upon that belief. Granted.

4. The jury are instructed that in determining whether the defendant in taking the life of Stafford acted in good faith under a reasonable apprehension that he was in danger of losing his own life or of suffering great bodily harm at the hands of Stafford they should take into consideration, along with the other evidence in the case, any threats which the jury shall be satisfied from the evidence Stafford had made against the defendant at the time of the cutting. Granted.

5. If the jury upon all the evidence have a reasonable doubt whether the defendant cut the deceased in self-defense as that has been heretofore defined, the defendant should be acquitted. Granted.

6. If the jury find from all the evidence that the defendant at the time he cut the deceased had reasonable ground to believe, and in good faith did believe, that he was in danger of losing his own life or of suffering great bodily harm from an assault by the deceased, actual or in good faith apprehended, their verdict should be not guilty. Granted.

7. If the jury find from the evidence that the deceased made an assault upon the defendant with the ax that has been exhibited in evidence in the trial of this cause, and was so near to the defendant at the time that the defendant had reasonable ground to believe, and did believe, that to retreat would place his life in peril or place him in danger of great bodily harm, he was not bound to retreat, but might use such reasonable means as were at hand to prevent serious bodily harm or loss of his life. Granted.

8. The court instructs the jury that while abusive words and epithets alone will not justify the taking of life, yet any words or epithets that may have been proved to have been made by the deceased towards the defendant at the time or immediately before the cutting are proper to be considered by the jury and should be considered by the jury in connection with all the other evidence in the case in determining whether the defendant acted in self-defense or not as self-defense has been defined. Rejected.

9. If upon the whole evidence of the case the jury entertain a reasonable doubt as to whether the defendant cut and killed Stafford under the belief in good faith that it was necessary to do so to prevent Stafford from killing him or doing him great bodily harm, then their verdict should be for the defendant. Granted.

10. The jury are instructed that if upon the whole evidence they have a reasonable doubt as to whether Stafford at the time of the cutting which resulted in his death had in his possession the ax which is in evidence, identified by the defendant, then the defendant is entitled to the benefit of that doubt. Rejected.

11. The court instructs the jury that the existence of reasonable apprehension or apparent danger is to be considered from the standpoint of the defendant at the time of the homicide and not from the standpoint of the jury in the light of the facts proved, provided the standpoint of the defendant is a reasonable one in the light of the facts proved. Granted.



20 Thereupon the United States asked the court to instruct the jury as follows:

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 BOYD WALLACE. }

1. The court instructs the jury that if they believe from the evidence that the defendant, Boyd Wallace, brought on or began the difficulty with the deceased, although with no intent to kill the latter or to do him serious bodily injury, then the defendant cannot justify the killing of the deceased during said difficulty on the ground of self-defense, although the latter assaulted him in such a way as to endanger his life or bodily safety. Rejected.

2. If the jury believe from the evidence that the defendant, Boyd Wallace, provoked the difficulty with Robert Stafford and in the progress thereof it became necessary to kill the latter to save himself from death or serious bodily harm, yet the defendant cannot justify the killing of Stafford on the ground — self-defense. Granted.

3. If the jury find from the evidence that the defendant, armed with a deadly weapon, sought out the deceased and provoked a quarrel with him on account of the latter's attention to Harriet Jackson, and during the progress of the quarrel killed the deceased with the said deadly weapon, then he is guilty of murder, although it became necessary during the progress of the quarrel to use the weapon in self-defense. Rejected.

21 4. The court instructs the jury that it is only in the last extremity that the right to the use of a deadly weapon under any circumstances arises, and, accordingly, in the present case if they believe from the evidence that the defendant could have retreated or avoided the combat (if they believe he was assaulted by the deceased) with safety to himself, then the killing of the deceased by the defendant cannot be excused on the ground of self-defense. Conceded.

5. If the jury believe from the evidence that the defendant, Boyd Wallace, invited the deceased, Robert Stafford, to speak with him for the purpose of provoking a difficulty in order that he might slay him, then he cannot avail himself of the defense of self-defense, although he delivered the fatal stroke while in danger of death or serious bodily harm at the hands of the deceased. Granted.

6. The court instructs the jury that the intent necessary to constitute malice aforethought need not have existed in the mind of the defendant for a particular length of time before the act of killing, but that it may spring up at the moment and may be inferred from the fact of killing; and the intent to kill may be inferred from the use of a deadly weapon, such as the knife used by the defendant in killing Robert Stafford. Conceded.

7. If the jury find from the evidence that the killing of Robert Stafford by the defendant has been proved as charged in the indictment, then it is incumbent on the defendant to satisfactorily estab-

lish any defence which he may rely upon in justification or excuse of his act or to reduce the killing to the grade of manslaughter, unless the proof thereof arises out of the evidence produced against him. Rejected.

22 . 8. The court instructs the jury that in determining the weight to be given the evidence of witnesses they should especially look to the interest which the respective witnesses have in the suit or in its result. Where any witness has a direct personal interest in the result of the suit the temptation is strong to color or pervert or withhold the facts.

The law permits the defendant at his own request to testify in his own behalf. The defendant has availed himself of this privilege. His testimony is before you, and you must determine how far it is credible. The deep personal interest which he has in the suit should be considered by the jury in weighing his evidence and in determining how far or to what extent, if at all, it is worthy of credit. Conceded.

Thereupon the trial justice proceeded to charge the jury upon the law bearing upon the case.

To which ruling and refusal to grant said requests for instruction the defendant, by his counsel, then and there excepted separately as to each ruling refusing to grant said instructions respectively numbered as follows, to wit, numbers 8, 10, and to the ruling of the court granting request for instructions for the Government the defendant, by his counsel, then and there excepted separately as to each ruling granting said instructions respectively numbered as follows, to wit, numbers 2, 5, and prayed the presiding justice to note said several exceptions upon his minutes, which was done.

Be it remembered that each of the separate and several exceptions taken by counsel for the defendant to each of the  
23 . separate and several ruling- of the court in the trial of said case as noted herein, and each of the separate and several exceptions to the refusal of the defendant's request for instructions to the jury as prayed, and each of the separate and several exceptions to the granting of the Government's request for instructions to the jury as prayed, and each and every exception noted and made a part of the record are allowed by the justice presiding, and the defendant, by his counsel, now prays the court to sign, seal, and make a part of the record this his bill of exceptions, to have the same force and effect as if each and every one of the exceptions taken — made a part hereof were embodied in a separate bill of exception, which is granted.

And the justice presiding thereupon signed and sealed this the defendant's bill of exceptions and made the same a part of the record in this case, now for then, this 16th day of March, A. D. 1901.

HARRY M. CLABAUGH, *Justice.*

## Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, }  
District of Columbia, } ss :

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 23, inclusive, to be a true and correct transcript of the record, as prescribed by rule 5 of the Court of Appeals of the District of Columbia, in cause No. 22662, criminal, United States *versus* Boyd Wallace, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe  
Seal Supreme Court my name and affix the seal of said court, at  
of the District of the city of Washington, this 26th day of  
Columbia. March, A. D. 1901.

JOHN R. YOUNG, *Clerk*.

Endorsed on cover: District of Columbia supreme court. No. 1076. Boyd Wallace, appellant, *vs.* The United States. Court of Appeals, District of Columbia. Filed Apr. 2, 1901. Robert Willett, clerk.

